IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Crl.Rev.Pet.No. 877 of 1999(X)

AGAINST THE ORDER IN CMP 1323/98 IN CC.743/1997
IN CRI. ME NO.14/96 of JUDL. MAGISTRATE OF FIRST CLASS, VAIKOM
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REVN. PETITIONER: COMPLAINANT

STATE OF KERALA, EXCISE INSPECTOR, KADUTHURUTHY RANGE, REP.BY THE PUBLIC PROSECUTOR , HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR

RESPONDENTS: ACCUSED
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1. **JOMON, VADAKKEVELIYIL VEEDU, KANNANKARA KARA, THANNEERMUKKAM VILLAGE, CHERTHALA TALUK.**

2. **ANNAMMA CHACKO, PUTHANCHIRA VEEDU, OMALLOOR KARA, KOTHANALLUR VILLAGE, VAIKOM TALUK.**

BY ADV. SRI.C.C.THOMAS

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/07/2007, ALONG WITH CRRP NO. 2807 OF 2003 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P.NOS. 877/1999 & 2807/2003OF

DATED THIS THE 9th July 2007

ORDER

The revision petitioner is the Excise Inspector who had initiated proceedings against the respondents under Section 56 (b), 57A(1)iii and 58 B(1)(b) of the Abkari Act on the basis of the analysis report that the sample contained diazepam. The applications filed to have the case withdrawn for presenting before the N.D.P.S.Court(Sessions Court, Thodupuzha) was dismissed by the court below which is taken up in revision herein.

2. On forwarding the second sample, the Joint Chemical Examiner to the Government of Kerala reported that it contained only ethyl alcohol and no diazepam. The contention is that there is no provision to forward the second sample for analysis. I find that it is laid down in the decision in **State of Kerala v. Deepak P.Shah, 2001(2)K.L.T.433** that the second sample can be forwarded for analysis. If the report is from a mere competent Laboratory, the same supercedes. In the circumstances, I find that there is nothing illegal in the order of

the court below dismissing the application of the revision petitioner. Hence, there is no merit in the revision petition filed by the Excise Inspector and the same is dismissed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.R.P.NOS.877/1999 &
2807/2003

ORDER

9-7-2007